

EXPRESS MAIL EL 919843918 US

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pankaj Malhotra et al. Attorney Docket #: 14013-13C (NEW DOCKET NO.)
Serial No.: 09/735,291 Filing Date: 07/28/2000
Examiner: Albert Dacadey Group Art No.: Unknown
Title: "USING PROFILES TO PERFORM BIT ERROR RATE TESTING"

RECEIVED

MAY 01 2003

OFFICE OF PETITIONS

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D. C. 20231

STATEMENT FOR RENEWED PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137 (b)

Dear Sir:

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137 (b) was unintentional. As will be explained in detail below, the decision regarding the Petition filed by the Applicant on 1/3/01 was forwarded to the Applicant's attorney's old address rather than the address reflected in the Change of Correspondence Address filed by the Applicant's attorney on 1/16/01. Thus, the undersigned did not become aware of any decisions on this matter until a phone call was received from the USPTO earlier this week at which time the undersigned's assistant, Erika Villafana, was told that a decision had been made granting the 1/3/01 petition, however, the decision was forwarded to an old address and since no reply was filed by the undersigned, a Notice of Abandonment was issued on 9/24/2002. The undersigned did not become aware of both the decision on the 1/3/01 Petition and the Notice of Abandonment until earlier this week. Thus, the filing of this petition is being made to revive the subject application.

The Applicant respectfully requests a full refund of the fees associated with the filing of this petition of \$1,300.00, as a Change of Correspondence Address, filed by the undersigned on 1/16/01, while received by the USPTO on 1/19/02, was not noted when sending the decision on the Petition of 1/3/01. Evidence of receipt of the undersigned's Change of Correspondence Address on 1/16/01, prior to the transmission of the decision on the Petition of 1/3/01 which the undersigned believes to have occurred well after the filing of the 1/16/01 Change of Correspondence Address, is provided herewith in the form of a copy of the returned postcard, dated 1/19/01. It is believed that failure to take note of the Change of Correspondence Address of 1/16/01, by the USPTO, caused the abandonment of the subject

CERTIFICATE OF MAILING (37 CFR 1.10(a))

CERTIFICATE OF MAILING BY "EXPRESS MAIL" - Rule 10: I hereby certify that this correspondence is being deposited with the U. S. Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 as Express Mail No. EL 919843918 US addressed to the Office of Petitions, Box DAC, Assistant Commissioner for Patents, Washington, D.C. 20231 on April 25, 2003 by Erika Villafana

Erika Villafana
Erika Villafana

April 25, 2003

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application. Also, the Applicant respectfully requests that the time from the filing of the Petition of 1/3/01, by the Applicant, until the time when a decision on the present petition being filed is rendered, be excluded from the time that it will take to prosecute the subject application and thus added to the 20 year lifetime of the subject applicant, as such delay of time was entirely caused by the USPTO's failure to process the Change of Correspondence Address filed by the undersigned on 1/16/01.

For the sake of convenience to the reader, the sequence of events that lead to the abandonment of the subject application is now provided. A continuation application was filed on July 28, 2000, prior to the issuance of the parent application, U.S Patent No. 6,108,801, on August 22, 2000. A Notice of Improper CPA Filing Under 37 CFR 1.53(d) (Paper No. 10) was issued by the USPTO on 12/7/2000. In response thereto, a Petition Under 37 CFR 1.53(e) To Accept and Treat An Improper Application CPA Filing Under 37 CFR 1.53(d) was filed and the appropriate fees were paid on 1/3/2001 by the Applicant. Thereafter, on 1/16/2001, the undersigned, Applicant's Attorney of Record, filed a Change of Correspondence Address with the USPTO. A returned postcard was received, by the undersigned, from the USPTO, dated 1/19/01, acknowledging receipt of the undersigned's Change of Correspondence Address. No further written communication, as known to the undersigned, occurred between the USPTO and the Applicant until a phone call was received, this week, from the USPTO regarding the subject application informing the undersigned's assistant, Erika Villafana, of a Notice of Abandonment and a decision regarding the Petition filed by the Applicant on 1/3/01 granting the latter. The undersigned's assistant, Erika Villafana, who answered the call from the USPTO indicated that no decision on the Petition of 1/3/01 or any notice of abandonment had been received by this office from the USPTO. After some investigation, it became evident that the Change of Correspondence Address filed on 1/16/01 by the undersigned was apparently not noted, by the USPTO, when sending the decision of the Petition of 1/3/01 and again later when sending the Notice of Abandonment of 9/24/02 to the undersigned and that these two documents were both apparently erroneously sent, at two different times, to the undersigned's old address. The undersigned is, to date, not in possession of the document reflecting the granting of the Petition filed on 1/3/01. The Notice of Abandonment was faxed to the undersigned earlier this week.


We respectfully request that i) the Petition for Revival for this application be granted; ii) the subject continuation application, filed under 37 CFR 1.53(b), continue to be prosecuted; iii) a full refund for the fees associated with this petition be refunded to the undersigned; and iv) the time from the filing

of the Petition of 1/3/01, by the Applicant, to the time of the decision on the present petition being filed to be excluded from the time for prosecuting the subject application. Please direct a decision to the address below.

Dated: April 25, 2003

Respectfully submitted

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By 
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